



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2105318

Applicant Name: Mark Nyhus for Verizon Wireless

Address of Proposal: 820 18th Avenue

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a minor communication utility (Verizon Wireless Services) consisting of one (1) 16"-wide canister-type configuration and four (4) panel antennas on the roof and parapet of an existing private school building. Project includes equipment cabinet to be located adjacent to the building in an underground vault.

The following approvals are required:

Administrative Conditional Use - to allow a minor communication utility in a residential Lowrise 1 (L1) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise 1 (L1) zone located at 820 18th Avenue in the Downtown/Central portion of Seattle. The proposed host structure (a private school building) is a portion of the Church of the Immaculate Conception complex and is located on the east side of 18th Avenue between East Marion Street and East Columbia Street.

The site is developed with a private school building, and associated yard and parking areas. The surrounding zoning and uses are:

North: Multi-Family Residential (L1) zone
East: Single-Family Residential (SF 5000) zone
South: Multi Family Residential (L1) zone
West: Multi-Family Residential (L1) zone

Proposal Description

Master Use Permit to establish use for future construction of a minor communication utility (Verizon Wireless Services) consisting of one (1) 16"-wide canister-type configuration and four (4) panel antennas on the roof and parapet of an existing private school building. Project includes equipment cabinet to be located adjacent to the building in an underground vault. The project was originally proposed to have 12 antennas but has been revised to reduce the number of antennas.

The maximum proposed height for the top of the antennas (and screening) is 51 feet 7 inches (51'7") above the existing grade level (the height of the building edge as measured from the lowest ground elevation of the building), 6 feet 6 inches (6'6") above the existing 45-foot one inch high (45'1") parapet. The height limit for the L1 zone is thirty (25) feet above grade. Therefore, approval through an Administrative Conditional Use Permit is required to exceed the height limit of the zone as well as to locate the minor communication utility in a residential zone.

Public Comment

The public comment period for this proposal officially ended on June 28, 2002, although the City continued to accept comment letters. DCLU received comments/letters from 4 concerned parties in the Cherry Hill neighborhood regarding this specific proposal. However, another application was made for this site by a different applicant under project number 2202269. That application was made on the same day as the subject application, and that application was also an administrative conditional use permit for a minor communication utility. Due to slightly different review issues and different applicant response times, the project 2202269 was approved prior to the subject application. Project 2202269 had many comments submitted. As the applications are very similar, the actual and perceived impacts are similar and the notices were posted and mailed simultaneously, DCLU has considered the comments made in application

project number 2202269 as if they were made for the subject application. The project mailing list from 2202269 has been added to the subject project mailing list in order to inform all that commented on either project of the project decision.

Concerns were raised over the long-term effects of radiofrequency waves on human beings, as was the opinion that adding bulky screening materials to the roof will be unsightly and block sunlight. Other concerns included the potential for negative property value affects; noise; interference with radio, television and other signals; and encroachment of commercial facilities into an existing residential neighborhood.

Analysis of Public Comment

Review of this proposal reveals that the application complies with the most current requirements of the Seattle Municipal Code (SMC) with regards to screening (SMC 23.57.016.C & 23.57.011.C.5), setbacks (SMC 23.45.014.A) and allowed radiation levels (see Applicant's Statement of Federal Communications Commission Compliance). The concerned citizens provide no evidence as to how the application conflicts with any provision of the Seattle Municipal Code.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

1. *Section 23.57.011.B.1: The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The subject application was made simultaneously with a separate application by Cingular Wireless, whose application was also for a minor communication facility (project number 2202269). These projects were reviewed together by the same reviewer to insure that the cumulative visual impacts would be considered. Additionally the host building for these proposed minor communication facilities are adjacent to the Immaculate Conception Church, which is listed as a City of Seattle Historical Landmark. Such listing requires review by the Historic Preservation Program in the Seattle Department of Neighborhoods (DON). That review was also conducted looking at the cumulative visual impacts. Plans submitted by the subject applicant and by the applicants of project number 2202269 show the facilities proposed by both project applications. In response to requirements from

DON the applicant has worked with Cingular Wireless, to create a coordinated application taking into account the cumulative visual impacts of both applications.

According to the plans submitted, the antennas will conform to codified requirements regarding setbacks and visual impacts. The applicant proposes to locate antennas within an RF transparent canister disguised to look like a small cylindrical chimney. The applicant also proposes to attach four panel antennas to the outside face of the building parapet. Resubmitted plans depict the integration of the four panel antennas into the architectural design of the existing parapet via size and color blending. The applicant has provided photo simulations depicting the expected “look” of the constructed facilities on the host structure.

The proposed minor communication utility does not appear to propose substantially detrimental compatibility impacts to the existing neighborhood. Traffic will not be affected by the presence of the constructed facility. The plans as proposed do not give reason to expect unacceptable noise levels. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas (See applicant’s declarations and submitted plans).

2. *Section 23.57.011.B.2: The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The proposed facility has been reviewed by the Historic Preservation Program within the Seattle Department of Neighborhoods, (DON), for adjacency review because the host structure is located near a building listed on the Seattle Historic Register. This review led to several design changes making the proposed project less intrusive than originally planned. The applicant also worked with Cingular Wireless, who also proposes a minor communication utility for this rooftop under file number 2202269, and the DON to reach a mutually beneficial agreement regarding the placement and the screening of the proposed equipment. Thus, DCLU is satisfied that visual impacts to the neighborhood will be mitigated to the greatest extent practicable per the requirements of 23.57.016.

3. *Section 23.57.011.B.3: Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a.) *the antenna is at least one hundred feet (100’) from a MIO boundary, and*
- b.) *the antenna is substantially screened from the surrounding neighborhood’s view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *Section 23.57.011.B.4: If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant has submitted radiofrequency maps demonstrating that the proposed antenna heights are the minimum necessary to ensure the effective functioning of the utility in the most inconspicuous manor possible. Therefore, the proposal complies with this criterion.

5. *Section 23.57.011.B.5: If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

According to the plans submitted, the proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal (See applicant's declarations and submitted plans).

6. *Section 23.57.011.C.1, Location: Minor communications utilities and accessory communications devices regulated pursuant to Section 23.57.002...*

- a.) *are prohibited in a required front or side setback.*
- b.) *may be located in a required rear setback, except for transmission towers.*

The plans submitted do not propose communications devices in front, side or back setbacks. Therefore, the proposal complies with these criteria (See applicant's declarations and submitted plans).

- c.) *In all Lowrise, Midrise and Highrise zones, minor communication utilities and accessory communications devices may be located on rooftops of buildings, including sides of parapets and penthouses above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.*

According to the revised plans submitted, the proposed antennas will be located on the roof and parapet of the existing private school structure. There is no conflict with the site

requirements for open space in this instance as there is adequate open space at ground level without utilizing the roof for such purposes. Therefore the proposal complies with this criterion (See applicant's declarations and submitted plans).

7. *Section 23.57.011.C.2: Height and Size.*

- a.) *The height limit of the zone shall apply to minor communication utilities and accessory communication devices, except as may be permitted in subsection C of this section.*

According to the plans submitted, the antennas will exceed the 25-foot height limit set for the L1 zone. The applicant has demonstrated, through materials submitted, that the height of the proposed antennas and screening is the minimum necessary to meet the needs of the telecommunications carrier. Therefore, the proposal complies with this criterion (see applicant's declarations and submitted plans).

8.) *Section 23.57.011.C.3 Visual Impacts: All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.*

The applicant has met the screening standards set forth in SMC 23.57.016. Therefore, this criterion has been satisfied.

9.) *Section 23.57.011.C.4 Access and Signage: Access to transmitting minor communication utilities and to accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radio-frequency radiation.*

According to the revised plans submitted by the applicant, required security and safety features will be provided. The proposed antennas are to be situated on the roof and parapet of the existing private school building. There is only one roof access shown on the plans. It consists of a ladder to be added to the side of the host structure. The ladder would have a locking mechanism to keep non-RF technicians from using it. In another application for antenna placement on this structure (project file # 2202269), the Cingular Wireless company proposes that an existing trapdoor located in the roof of the host building be locked and posted with RF signage. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

10.) *Section 23.57.011.C.5 Reception Window Obstruction: When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, the Director*

may grant a waiver from the screening requirements of Section 23.57.016. Approval of a waiver shall be subject to the following criteria:

- a.) The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.*
- b.) The applicant shall use material, shape and color to minimize visual impact.*

The applicant is not requesting relief from the screening requirements of this chapter. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

11.) 23.57.016 Visual Impacts and Design Standards:

- A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.*

The applicant proposes to place equipment cabinets in a vault surrounded by landscaping and one roof mounted RF transparent canister disguised to look like a small cylindrical chimney. The applicant also proposes to attach the four panel antennas to the facade of the building parapet. The applicant's revised plans depict the integration of the four panel antennas into the architectural design of the existing parapet via size and color blending. The applicant has provided photographic simulations depicting the expected "look" of the constructed facilities on the host structure. The proposed screening and concealment of the facilities does appear to result in a cohesive relationship with the key architectural elements of the building and to be as integrated with the existing building as possible. Therefore, the proposal complies with this criterion.

- C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.*

According to information submitted by the applicant, the roof antenna assembly is to be located as close to the center of the building as is technically feasible, within a cylindrical

screen that extends above its top. The four antennas proposed for installation on the facade of the parapet are depicted as mounted flat against said parapet and do not protrude above the parapet's top. Therefore, the proposal complies with this criterion (see applicant's declarations and submitted plans).

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

No communication facilities currently occupy the subject structure. However, there is a second minor communication facility proposed for the host building. The applicant has made a significant effort to work in tandem with the other telecommunications company (Cingular Wireless, DCLU file # 2202269), the Historic Preservation Program within DON and the State Historic Preservation Office to design a comprehensive and aesthetically pleasing integration of both proposed utilities. Therefore, the proposal complies with this criterion (in addition to the above referenced file, see applicant's declarations and submitted plans).

SUMMARY

The proposed project is consistent with the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to surrounding inhabitants.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatment, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project."

DECISION - ADMINISTRATIVE CONDITIONAL USE

An Administrative Conditional Use permit is **GRANTED** to allow a minor communication utility in a residential Lowrise 1 (L-1) zone.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment,

certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 23, 2002. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made the assessment. The radiofrequency emissions of both the subject proposal by Verizon and the recently permitted Cingular Wireless proposal (project 2202269) were considered. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment vault may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity (including grading) to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

The construction of the Verizon equipment vault, to be located between the Church rectory and the proposed host structure (the school building) will require excavation to a depth of eighteen

feet (18') below grade. This excavation should be managed according to the recommendations of a qualified geotechnical engineer. In addition, temporary erosion control measures should be included in construction plans. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to mitigate construction-related impacts. Therefore, the proposal will be conditioned to require a geotechnical report and recommendations, as well as temporary erosion control measures, before building permits can be issued.

Long-Term Impacts

Historic Preservation

The Immaculate Conception School is not a designated City Landmark although the Immaculate Conception Church on the same site is so designated. Following an interdepartmental agreement between DCLU and the Department of Neighborhoods (DON), a referral was made to the Historic Preservation Office within DON seeking comment on anticipated adverse affects of the proposal on the city landmark. The DON response mentioned that a design goal should be to minimize the visibility, volume and height of the facility. The project was revised from twelve antennas down to four which are designed to blend into the parapet as architectural details and an additional cylindrical-shaped antenna unit. No adverse impact to the nearby city landmark structure which would warrant further mitigation is anticipated as a result of the revised project design.

It is interesting to note that the Immaculate Conception School building itself may be eligible for placement on the National Register of Historic Places. The State of Washington Office of Archaeology and Historic Preservation has commented that the revised project design will have no adverse effect on the character defining features that qualify the building for the National Register and that the new antennas will not be readily apparent to the public from the nearby rights-of-way.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

ADMINISTRATIVE CONDITIONAL USE - CONDITIONS

None.

SEPA - CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity (including grading) shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.
2. In order to further mitigate the temporary construction impacts associated with this project, a geotechnical analysis; report and construction recommendations shall be required prior to any site work, and prior to building permit issuance. A Geotechnical Engineer licensed in the State of Washington shall analyze the site and prepare the required report and recommendations.
3. In order to further mitigate the temporary impacts associated with the construction of the Verizon Wireless Services equipment vault, the applicant shall include with the required construction plans, a temporary erosion control plan including such items as, but not limited to, construction entrance(s) and silt fences.

Signature: (signature on file) Date: June 12, 2003
John Bissell, Contract Land Use Planner
Department of Design, Construction and Land Use

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